

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JEROME MONTGOMERY,

Plaintiff(s),

vs.

JAMES PURKETT,

Defendant(s).

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Case No. 4:05CV01677 ERW (AGF)

MEMORANDUM AND ORDER

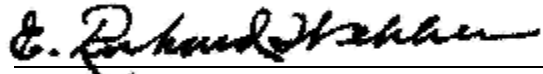
This matter comes before the Court on the Report and Recommendation of United States Magistrate Judge Audrey G. Fleissig [doc. #17] pursuant to 28 U.S.C. § 636(b). The Court notes that no objections were filed to the Report and Recommendation. After consideration of the issues, the Court hereby sustains, adopts, and incorporates herein the Magistrate’s Report and Recommendation. In addition, in order to issue a certificate of appealability “the applicant must make a substantial showing of the denial of a constitutional right,” which the petitioner has not done in this case. *See Slack v. McDaniel*, 529 U.S. 473, 483 (2000); *see also Langley v. Norris*, 465 F.3d 861, 863 (8th Cir. 2006). Furthermore, the Court does not believe that reasonable jurists might find the Court’s decision debatable or wrong, for purposes of issuing a certificate of appealability under 28 U.S.C. § 2253(c)(1)(A). *Slack*, 529 U.S. at 483-84. Therefore, the Court shall not issue a certificate of appealability as to any claim raised in the Petition.

Accordingly,

IT IS HEREBY ORDERED that Petitioner Jerome Montgomery’s Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 [doc. #1] is **DENIED**.

IT IS FURTHER ORDERED that a Certificate of Appealability is **DENIED**.

Dated this 17th Day of July, 2008.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written over a horizontal line.

E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE